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DEPT FOR S/WCI (S. HODGKINSON), L/FO (J. BELLINGER), DRL
(A/S B. LOWENKRON)

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TAGS: [PREL](#) [KAWC](#) [KJUS](#) [KPAO](#) [PHUM](#) [NL](#)

SUBJ: OUTREACH ON DETAINEE POLICY MAKES INROADS

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¶1. (U) Summary: At Embassy's request, Sandy Hodgkinson, Deputy Director of State's Office of War Crimes Issues (S/WCI), visited The Hague July 18-20 and joined Ambassador Arnall in meetings with leading opinion makers, parliamentarians and press. Discussions of U.S. detainee policy, with a focus on Guantanamo, clearly satisfied an outstanding need here for answers to some of the more difficult issues we currently face. Our guests uniformly expressed their desire to see additional public outreach on this vital issue. End summary.

¶2. (SBU) Hodgkinson and Ambassador Arnall met with the chair and director of external relations for Amnesty International (Netherlands), top Foreign Ministry officials, parliamentary foreign policy spokesmen (and leading MPs), newspaper editors, columnists, journalists, elder statesmen and the chairman of the Netherlands Council of the Judiciary. Hodgkinson also held a town hall with embassy employees. Except for one press event, the meetings were private.

Key Dutch concerns and misperceptions - and our answers

¶3. (SBU) Hodgkinson gave a comprehensive overview of detainee policy, with particular focus on Guantanamo. Guests' concern focused, generally, on four issues: the U.S. legislative debate on military commissions, procedures to ensure innocent individuals are not held in Guantanamo, and suitable regimes for dealing both with long-term detainees and with release of detainees no longer deemed a threat.

¶4. (SBU) Guests' comments made clear that misperceptions continue regarding the nature of our Combatant Status Review Tribunals (CSRTs) and the role they play in satisfying Article 5 tribunal requirements. Hodgkinson's comments on this - including noting that 38 individuals had been released from Guantanamo by the CSRTs - made inroads with members of the Council of State (the nation's highest advisory body, comprised of elder statesmen and other notables, appointed for life). Likewise, her explanation of the Supreme Court's ruling on common Article 3 - that the dispute is restricted solely to the nature of any future military commissions - helped dispel misconceptions that have been repeated in the press. Specifically, many of our guests believed the administration was asking Congress to overturn common Article 3's guarantees of humane treatment. Finally, her frank explanations of the challenges facing the U.S. in dealing with detainees who we would like to release were well received. Amnesty International, among others,

conceded that no one wants to see detainees released, without safeguards, to countries with poor human rights records. Most of our interlocutors agreed that the U.S. has (at least at times) taken an unfair beating on this.

Moving forward: Dutch encourage continued outreach

15. (SBU) Several guests from VVD (a conservative party and junior partner in the governing coalition) urged that the U.S. consider ways in which we could "internationalize" solutions, including through the inclusion of judges from allied countries on future officially-constituted panels. All agreed that this would be politically difficult, but a fair number thought it worth exploring. There was unanimous agreement that continued public outreach would be extremely useful.

16. (SBU) A few guests continued old lines of hyper-legalistic criticism, insisting that the U.S. must look to all bodies of human rights and international humanitarian law (IHL, a.k.a. law of war). The MFA's Ambassador-at-Large for Human Rights, Piet de Klerk, and the MFA's Deputy Head of the International Law Division, held variants of this position. Hodgkinson explained the longstanding legal position of the U.S., dating to at least the late 1940s - that IHL is the applicable law in time of war and that human rights law is secondary. Most of our guests disagreed with this position but were eager to focus on more concrete issues, such as how to implement the return of certain detainees to their home countries and how to set up courts that are both legally acceptable and practical.

Comment: Continued outreach is vital

17. (SBU) Hodgkinson's visit was very successful. Detainee policy is a constantly evolving topic, and erroneous press

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speculation can quickly erode public confidence in the U.S. Visits by well placed Washington officials are a potent antidote. Post is interested in a follow-on public diplomacy program in the October timeframe and would welcome additional visits. We can guarantee, because of Ambassador's personal involvement, that leading opinion makers will be available.
Blakeman